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8 **UNITED STATES DISTRICT COURT**

9
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

11 BERTHA DE LOS SANTOS,

12 Plaintiff,

13 vs.

14 WAL-MART ASSOCIATES, INC.,
15 WALMART INC.; and DOES 1 through
100, inclusive,

16 Defendants.
17

Case No.: 5:24-cv-01345-SSS-JC

[CHANGES MADE BY COURT TO
PARAGRAPHS 22-24, 26, 29]

18 **MODIFIED AGREED CONFIDENTIALITY ORDER**

19 The parties have agreed to and have submitted to the Court, and for good cause
20 shown the Court hereby enters, the following Confidentiality Order:

21 1. This Order shall govern the disclosure of materials designated as
22 Confidential Material in this litigation. Confidential Material, as used in this Order,
23 shall refer to any document or item designated as Confidential or Highly Confidential
24 – Attorneys’ Eyes Only, including but not limited to, documents or items produced
25 during discovery, all copies thereof, and the information contained in such material.
26 Nothing in this Order shall require any party to produce any specific documents or
27 category of documents which a party deems inappropriate for production.
28

1 2. Discovery in this action is likely to involve production of confidential,
2 proprietary, or private information for which special protection from public disclosure
3 and from use for any purpose other than prosecuting this litigation may be warranted.
4 Accordingly, the parties hereby stipulate to and petition the Court to enter the following
5 Stipulated Protective Order. The parties acknowledge that this Order does not confer
6 blanket protections on all disclosures or responses to discovery and that the protection
7 it affords from public disclosure and use extends only to the limited information or
8 items that are entitled to confidential treatment under the applicable legal principles.
9 The parties further acknowledge, as set forth below, that this Stipulated Protective
10 Order does not entitle them to file confidential information under seal; Civil Local Rule
11 79-5 sets forth the procedures that must be followed and the standards that will be
12 applied when a party seeks permission from the court to file material under seal.

13 **Good Cause Statement**

14 This action is likely to involve trade secrets and other valuable research, development,
15 commercial, financial, technical and/or proprietary information for which special
16 protection from public disclosure and from use for any purpose other than prosecution
17 of this action is warranted. Such confidential and proprietary materials and information
18 consist of, among other things, confidential business or financial information,
19 information regarding confidential business practices, or other confidential research,
20 development, or commercial information (including information implicating privacy
21 rights of third parties), information otherwise generally unavailable to the public, or
22 which may be privileged or otherwise protected from disclosure under state or federal
23 statutes, court rules, case decisions, or common law. Accordingly, to expedite the flow
24 of information, to facilitate the prompt resolution of disputes over confidentiality of
25 discovery materials, to adequately protect information the parties are entitled to keep
26 confidential, to ensure that the parties are permitted reasonable necessary uses of such
27 material in preparation for and in the conduct of trial, to address their handling at the
28 end of the litigation, and serve the ends of justice, a protective order for such

1 information is justified in this matter. It is the intent of the parties that information will
2 not be designated as confidential for tactical reasons and that nothing be so designated
3 without a good faith belief that it has been maintained in a confidential, non-public
4 manner, and there is good cause why it should not be part of the public record of this
5 case.

6 **Definitions of Confidential Material**

7 3. Confidential Material, as used in this Order, consists of the following
8 materials and categories of materials:

- 9 a. Materials relating to any privileged, confidential, or nonpublic
10 information, including, but not limited to, trade secrets, research,
11 design, development, financial, technical, marketing, planning,
12 personal, or commercial information, as such terms are used in the
13 Federal Rules of Civil Procedure (Fed. R. Civ.) and any applicable
14 case law interpreting Fed. R. Civ. 26(c)(1)(G); contracts; non-
15 public compilations of retail prices; proprietary information;
16 vendor agreements; personnel files; claim/litigation information;
17 and nonpublic policies and procedures shall be deemed
18 Confidential.
- 19 b. Materials containing corporate trade secrets, nonpublic research
20 and development data, including, but not limited to, cost data,
21 pricing formulas, inventory management programs, and other sales
22 or business information not known to the public; information
23 obtained from a non-party pursuant to a non-disclosure agreement;
24 and customer-related Protected Data shall be deemed Highly
25 Confidential – Attorneys’ Eyes Only.
- 26 c. Protected Data shall refer to any information that a party believes
27 in good faith to be subject to federal, state or foreign data protection
28 laws or other privacy obligations. Examples of such data protection

1 laws include but are not limited to The Gramm-Leach-Bliley Act,
2 15 U.S.C. § 6801 et seq. (financial information); and, The Health
3 Insurance Portability and Accountability Act and the regulations
4 thereunder, 45 CFR Part 160 and Subparts A and E of Part 164
5 (medical information). Certain Protected Data may compel
6 alternative or additional protections beyond those afforded Highly
7 Confidential – Attorneys’ Eyes Only material, in which event the
8 parties shall meet and confer in good faith, and, if unsuccessful,
9 shall move the Court for appropriate relief.

10 The parties shall not designate as confidential information that is already public
11 knowledge.

12 4. The parties agree that such Confidential Material as described in
13 paragraph 2 should be given the protection of an order of this Court to prevent injury
14 through disclosure to persons other than those persons involved in the prosecution or
15 defense of this litigation.

16 **Procedure for Designating Information as Confidential**

17 5. To designate information as confidential, the producing party shall mark
18 Confidential Material with the legend “CONFIDENTIAL” or “HIGHLY
19 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Parties shall submit confidential
20 discovery responses, such as answers to interrogatories or answers to requests for
21 admissions, in a separate document stamped with the appropriate legend designating
22 those responses as Confidential Material. The Receiving Party may make copies of
23 Confidential Material and such copies shall become subject to the same protections as
24 the Confidential Material from which those copies were made.

25 a. Information on a disk or other electronic format (e.g., a native
26 format production) may be designated confidential by marking the
27 storage medium itself (or the native file’s title) with the legend
28 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –

1 ATTORNEYS' EYES ONLY.” The Receiving Party shall mark
2 any hard-copy printouts and the storage medium of any permissible
3 copies of such electronic material with the corresponding legend
4 contained on the original and such copies shall become subject to
5 the same protections, as the Confidential Material from which those
6 copies were made.

7 b. Information disclosed at any deposition of a party taken in this
8 action may be designated by the party as confidential by indicating
9 on the record at the deposition that the information is confidential
10 and subject to the provisions of this Order. Alternatively, the party
11 may designate information disclosed at the deposition as
12 confidential by notifying the court reporter and other parties in
13 writing, within fifteen (15) business days of receipt of the transcript,
14 of the specific pages and lines of the transcript which are designated
15 as confidential. The parties may agree to a reasonable extension of
16 the 15-business-day period for designation. Designations of
17 transcripts will apply to audio, video, or other recordings of the
18 testimony. During such 15-business-day period, the entire
19 transcript shall receive confidential treatment. Upon such
20 designation, the court reporter and each party shall affix the
21 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
22 ATTORNEYS' EYES ONLY” legend to the designated pages and
23 segregate them as appropriate.

24 6. A producing party may change the confidentiality designation of materials
25 it has produced, as follows: (1) The producing party must give the receiving parties
26 notice of the change by identifying the documents or information at issue. Once notice
27 is given, the receiving party must make good-faith efforts to ensure that the documents
28 or information are accorded treatment under the new designation. (2) Within a

1 reasonable period after giving notice, the producing party must reproduce the
2 documents or information in a format that contains the new designation. (3) If such
3 information has been disclosed to persons not qualified pursuant to paragraph(s) (12-
4 13) below, the party who disclosed such information shall (a) take reasonable efforts
5 to retrieve previously disclosed Confidential Material; (b) advise such persons that the
6 material is Confidential; and (c) give the producing party written assurance that steps
7 (a) and (b) have been completed.

8 **Data Security**

9 7. The Parties agree to provide adequate security to protect data produced by
10 the other party(ies) or by non-parties. This includes secure data storage systems,
11 established security policies, and security training for employees, contractors and
12 experts. Adequate security also includes such measures as data encryption in transit,
13 data encryption at rest, data access controls, and physical security, whether
14 hosted/outsourced to a vendor or on premises. At a minimum, any receiving party
15 subject to the terms of this Confidentiality Order, will provide reasonable measures to
16 protect non-client data consistent with the American Bar Association Standing
17 Committee on Ethics and Professional Responsibility, Formal Opinion 477R.

18 **Clawback Provisions**

19 8. The production of privileged or work-product protected documents,
20 electronically stored information (ESI) or information, whether inadvertent or
21 otherwise, is not a waiver of the privilege or protection from discovery in this case or
22 in any other federal or state proceeding.

23 9. This Order shall be interpreted to provide the maximum protection
24 allowed by Federal Rule of Evidence (FRE) 502(d) and shall be enforceable and
25 granted full faith and credit in all other state and federal proceedings by 28 U.S. Code
26 § 1738. In the event of any subsequent conflict of law, the law that is most protective
27 of privilege and work product shall apply.

1 10. Nothing contained herein is intended to or shall serve to limit a party's
2 right to conduct a review of documents, ESI or information (including metadata) for
3 relevance, responsiveness and/or segregation of privileged and/or protected
4 information before production.

5 11. If the receiving party has reason to believe that a produced document or
6 other information may reasonably be subject to a claim of privilege, then the receiving
7 party shall immediately sequester the document or information, cease using the
8 document or information and cease using any work product containing the information,
9 and shall inform the producing party of the beginning BATES number of the document
10 or, if no BATES number is available, shall otherwise inform the producing party of the
11 information.

12 12. A producing party must give written notice to any receiving party
13 asserting a claim of privilege, work-product protection, or other ground for reclaiming
14 documents or information (a "clawback request"). After a clawback request is
15 received, the receiving party shall immediately sequester the document (if not already
16 sequestered) and shall not review or use that document, or any work product containing
17 information taken from that document, for any purpose. The parties shall meet and
18 confer regarding any clawback request.

19 **Who May Receive Confidential and Highly Confidential Information**

20 13. Confidential Material. Any Confidential Material and the information
21 contained therein shall be disclosed only to the Court, its staff, in-house counsel and
22 outside counsel of record for each party, and also shall be disclosed on a need-to-know
23 basis only to the parties, counsel's staff personnel, employees of a party to whom
24 disclosure is necessary in connection with the preparation for and trial of this action,
25 and any witnesses in the case (including consulting and testifying experts) as may from
26 time to time reasonably be necessary in prosecution or defense of this action.

27 14. Highly Confidential—Attorneys' Eyes Only Material. Material and
28 information designated as "Highly Confidential—Attorneys' Eyes Only" shall only be

1 disclosed to the Court, its staff, in-house and outside counsel of record for each party,
2 the secretarial, clerical, and paralegal staff of each, and consulting and testifying
3 experts retained by a party in this action.

4 15. Restriction on Disclosure to Direct Competitors. Notwithstanding the
5 foregoing, Confidential Material shall not be disclosed to any current or former
6 employees of, or current or former consultants, advisors, or agents of, a direct
7 competitor of any party named in the litigation. If a Receiving Party is in doubt about
8 whether a particular entity is a direct competitor of a party named in this lawsuit, then
9 before disclosing any Confidential Material to a current or former employee,
10 consultant, advisor, or agent of that entity, the Receiving Party's counsel must confer
11 with counsel for the Producing Party.

12 16. Persons Receiving Confidential Information Must Sign Exhibit A.
13 Counsel for each party shall advise all persons to whom Confidential Material is
14 disclosed pursuant to this Order of the existence of this Order and shall provide all such
15 persons (other than the Court and its staff) with a copy of this Order. Counsel shall also
16 require such persons to execute the Affidavit attached as Exhibit A, prior to the
17 disclosure of Confidential Material.

18 17. Duties in the Event of Unauthorized Disclosures. It shall be the obligation
19 of counsel, upon learning of any unauthorized disclosure or threatened unauthorized
20 disclosure of Confidential Information, or any other breach or threatened breach of the
21 provisions of this Order, to promptly notify counsel for the Producing Party. The
22 notification shall be supplemented with reasonable details of the circumstances of the
23 disclosure in order to permit the producing party to understand and take appropriate
24 steps. Each party and its counsel agree to take reasonable and good-faith efforts to
25 contain or limit any breach promptly upon receiving notice of it, and to make
26 reasonable and good-faith attempts to retrieve any unauthorized disclosure of
27 documents or information. This provision does not limit the producing party's
28 entitlement to damages resulting from any breach of this Order.

1 **Authorized Uses of Confidential Material**

2 18. Confidential Material shall only be used for the purpose of litigating the
3 above-captioned lawsuit and may not be used in other lawsuits.

4 19. Persons having knowledge of Confidential Material and information due
5 to their participation in the conduct of this litigation shall use such knowledge and
6 information only as permitted herein, and shall not disclose such Confidential Material,
7 their contents or any portion or summary thereof to any person(s) not involved in the
8 conduct of this litigation.

9 20. If any person having access to the Confidential Material herein shall
10 violate this Order, he/she may be subject to sanctions by the Court and may be liable
11 to pay for the damages caused by his/her violation.

12 **Challenges to the Designation of Confidential Material**

13 21. Any party or interested member of the public may move the Court to
14 modify the designation of any documents or information produced in this litigation
15 (either to include additional protection with respect to confidentiality or to remove a
16 confidential designation) consistent with the Court's Scheduling Order. The
17 challenging Party shall initiate the dispute resolution process under Local Rule 37.1 et
18 seq., Pending resolution of any challenges to the designation of documents or
19 information, the material at issue shall continue to be treated as Confidential Material
20 until ordered otherwise by the Court. The burden shall be on the party seeking to
21 modify the designation to show that the producing party's designation is inappropriate.

22 **Withholding of Information**

23 22. [DELETED BY COURT]

24 23. [DELETED BY COURT]

25 24. [DELETED BY COURT]

26 **Confidential Material In Filings, Hearings, and Trial**

27 25. Confidential Material in Filings. Without written permission from the
28 Producing Party or court order secured after appropriate notice to all interested persons,

1 a party may not file Confidential Material in the public record in this action (or in any
2 other action, such as an appeal). A party that seeks to file under seal any Confidential
3 Material must comply with Local Rule 79-5. Confidential Material may only be filed
4 under seal in a manner prescribed by the Court for such filings.

5 26. Manner of Sealing. In the event Confidential Materials or portions of
6 transcripts are sealed as confidential by the Court above, they shall be filed in an
7 envelope bearing the following designation when deposited:

8 **CONFIDENTIAL**

9 IN ACCORDANCE WITH THE CONFIDENTIALITY
10 ORDER OF THE COURT, THE CONTENTS OF THIS
11 ENVELOPE SHALL BE TREATED AS
12 CONFIDENTIAL AND MUST NOT BE SHOWN TO A
13 PERSON OTHER THAN THE COURT, ATTORNEYS
14 IN THIS CASE, OR TO PERSONS ASSISTING THOSE
15 ATTORNEYS.

16 27. Confidential Material in Hearings and Trial. The provisions of this Order
17 shall not affect, and this Order does not limit, the admissibility of Confidential Material
18 (or references to that material) as evidence at trial, or during a hearing or similar
19 proceeding in this action. Prior to using Confidential Material or the information
20 contained therein at any hearing that is open to the public, the party seeking to use the
21 Confidential Material must give at least seven (7) days advance notice to the producing
22 party of the intent to use the Confidential Material so that the producing party may seek
23 an appropriate Court Order to protect the Confidential Material.

24 **Continuing Effect of this Order and Duty to Destroy**

25 28. This Order shall continue to be binding throughout and after the
26 conclusion of this litigation, including all appeals. Within thirty (30) days of settlement
27 or final adjudication, including the expiration or exhaustion of all rights to appeal or
28 petitions for extraordinary writs, each party or non-party to whom any materials were

1 produced shall, without further request or direction from the Producing Party, promptly
2 destroy all documents, items or data received including, but not limited to, copies or
3 summaries thereof, in the possession or control of any expert or employee. This
4 requirement to destroy includes all documents, not only those documents designated as
5 Confidential Material. The Receiving Party shall submit a written certification to the
6 Producing Party by the 30-day deadline that (1) confirms the destruction/deletion of all
7 Confidential Material, including any copies of Confidential Materials provided to
8 persons required to execute Exhibit A (Affidavit), and (2) affirms the Receiving Party
9 has not retained any copies, abstracts, compilations, summaries or any other format
10 reproducing or capturing any of the Confidential Material. Notwithstanding this
11 provision, outside counsel is entitled to retain an archival copy of filings, depositions,
12 and deposition exhibits.

13 **Procedure if Confidential Material Is Required to be Produced**

14 29. If any person receiving documents covered by this Order is served with a
15 subpoena, order, interrogatory, or document or civil investigative demand (collectively,
16 a “Demand”) issued in any other action, investigation, or proceeding, and such Demand
17 seeks material that was produced or designated as Confidential Material by someone
18 other than the Receiving Party, the Receiving Party shall give prompt written notice by
19 hand or electronic transmission within five (5) business days of receipt of such Demand
20 to the party or non-party who produced or designated the material as Confidential
21 Material, and shall object to the production of such materials on the grounds of the
22 existence of this Order. At the request of the party or non-party who produced or
23 designated the material as Confidential Material, the Receiving Party shall refuse to
24 comply with the Demand unless (a) ordered to do so by a court with jurisdiction over
25 the Receiving Party; (b) released in writing by the party or non-party who designated
26 the material as Confidential Material; (c) otherwise required to do so by the law or
27 court order. The burden of opposing the enforcement of the Demand shall fall upon
28 the party or non-party who produced or designated the material as Confidential

1 Material. Compliance by the Receiving Party with any court order directing production
2 of any Confidential Material, shall not constitute a violation of this Order.

3 **Application of this Order to Productions by Third Parties**

4 30. This Order may be used by third parties producing documents in
5 connection with this action. Third parties may designate information as Confidential
6 or Highly Confidential – Attorneys’ Eyes Only.

7 31. If a third party produces (or intends to produce) documents and does not
8 designate (or does not intend to designate) those documents as Confidential Material,
9 then any party to this action may seek to designate that third party’s documents or
10 categories of documents as Confidential Material. In that case, it will be the burden of
11 the party seeking protected status to move for a court order designating the materials
12 as Confidential Material after the parties confer.

13 32. In the event additional parties join or intervene in this litigation, the newly
14 joined party(ies) shall not have access to Confidential Material until its/their counsel
15 has executed and, at the request of any party, filed with the Court the agreement of such
16 party(ies) and such counsel to be fully bound by this Order.

17 33. The parties agree that nothing in this Order shall be deemed to limit the
18 extent to which counsel for the parties may advise or represent their respective clients,
19 conduct discovery, prepare for trial, present proof at trial, including any document
20 designated Confidential Material as set forth herein, or oppose the production or
21 admissibility of any information or documents which have been requested.

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EXHIBIT A TO CONFIDENTIALITY ORDER

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

BERTHA DE LOS SANTOS,

Plaintiff,

vs.

Case No.: 5:24-cv-01345-SSS-JC

WAL-MART ASSOCIATES, INC.,
WALMART INC.; and DOES 1 through
100, inclusive,

Defendants.

AFFIDAVIT OF COMPLIANCE WITH CONFIDENTIALITY ORDER

1. My name is _____. I live at _____
_____. I am working on behalf (or at the direction and
engagement) of _____.

2. I am aware that a Confidentiality Order has been entered in the above-captioned lawsuit. A copy of this Confidentiality Order has been given to me, and I have read and understand the provisions of same.

3. I acknowledge that documents and information designated as confidential and/or highly confidential pursuant to such Confidentiality Order ("Confidential Materials") are being disclosed to me only upon the conditions that I agree (a) to be subject to the jurisdiction of this Court, and (b) to comply with that Order. I hereby agree to abide by such Order, subject to all penalties prescribed therein, including contempt of Court, for disobedience of said Order. I promise that the documents and information given confidential treatment under the Confidentiality Order entered in this case will be used by me only to assist counsel for the parties in preparing for litigation of the above-captioned matter. I understand that any use of such Confidential Material in any manner contrary to the provisions of the Confidentiality Order may subject me to the sanctions of this Court for contempt and to liability for any damages caused by my breach of the Confidentiality Order.

1 4. I shall not disclose nor permit to be reviewed or copied said Confidential
2 Materials, or any information derived from, by any person other than the parties and
3 counsel for the parties or members of their staff.

4 5. Within 30 days after the above-captioned lawsuit ends in a final non-
5 appealable order, I agree to destroy all Confidential Materials in my possession.

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8 DATED: _____, 20____

Signature

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Signature
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